

AN ACT

RELATING TO TAXATION; REDUCING INCOME TAX RATES; EXPANDING THE CAPITAL GAINS DEDUCTION; CHANGING REQUIREMENTS FOR PAYMENT OF INTEREST ON CERTAIN REFUNDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-1-68 NMSA 1978 (being Laws 1965, Chapter 248, Section 69, as amended) is amended to read:

"7-1-68. INTEREST ON OVERPAYMENTS. --

A. As provided in this section, interest shall be allowed and paid on the amount of tax overpaid by a person that is subsequently refunded or credited to that person.

B. Interest payable on overpayments of tax shall be paid at the rate of fifteen percent a year, computed on a daily basis; provided that if a different rate is specified by a compact or other interstate agreement to which New Mexico is a party, that rate shall be applied to amounts due under the compact or other agreement.

C. Unless otherwise provided by this section, interest on an overpayment not arising from an assessment by the department shall be paid from the date the claim for refund was made until a date preceding by not more than thirty days the date on which the amount thereof is credited or refunded to any person; interest on an overpayment arising from an assessment by the department shall be paid from the

date overpayment was made until a date preceding by not more than thirty days the date on which the amount thereof is credited or refunded to any person.

D. No interest shall be allowed or paid with respect to an amount credited or refunded if:

(1) the amount of interest due is less than one dollar (\$1.00);

(2) the credit or refund is made within:

(a) fifty-five days of the date of the claim for refund of income tax, pursuant to either the Income Tax Act or the Corporate Income and Franchise Tax Act for the tax year immediately preceding the tax year in which the claim is made; or

(b) seventy-five days of the date of the claim for refund of gasoline tax to users of gasoline off the highways;

(3) the credit or refund is made within one hundred twenty days of the date of the claim for refund of income tax, pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act, for any tax year more than one year prior to the year in which the claim is made;

(4) Sections 6611(f) and 6611(g) of the Internal Revenue Code, as those sections may be amended or renumbered, prohibit payment of interest for federal income tax purposes;

(5) the credit or refund is made within sixty days of the date of the claim for refund of any tax other than income tax; or

(6) the credit results from overpayments found in an audit of multiple reporting periods and applied to underpayments found in that audit or refunded as a net overpayment to the taxpayer pursuant to Section 7-1-29 NMSA 1978.

E. Nothing in this section shall be construed to require the payment of interest upon interest. "

Section 2. Section 7-2-7 NMSA 1978 (being Laws 1994, Chapter 5, Section 20, as amended) is amended to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by Section 7-2-3 NMSA 1978 shall be at the following rates for any taxable year beginning in 2003:

A. For married individuals filing separate returns:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.7% of taxable income
Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of excess over \$ 4,000
Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of excess over \$ 8,000
Over \$ 12,000 but not over \$ 20,000	\$ 384 plus 6.0% of excess over \$ 12,000
Over \$ 20,000 but not over \$ 32,000	\$ 864 plus 7.1% of

	excess over \$ 20,000
Over \$ 32,000	\$ 1,716 plus 7.7% of excess over \$ 32,000.

**B. For surviving spouses and married individuals filing joint returns:**

If the taxable income is:	The tax shall be:
Not over \$8,000	1.7% of taxable income
Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of excess over \$ 8,000
Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of excess over \$ 16,000
Over \$ 24,000 but not over \$ 40,000	\$ 768 plus 6.0% of excess over \$ 24,000
Over \$ 40,000 but not over \$ 64,000	\$ 1,728 plus 7.1% of excess over \$ 40,000
Over \$ 64,000	\$ 3,432 plus 7.7% of excess over \$ 64,000.

**C. For single individuals and for estates and trusts:**

If the taxable income is:	The tax shall be:
Not over \$5,500	1.7% of taxable income
Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of excess over \$ 5,500
Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of excess over \$ 11,000

Over \$ 16,000 but not over \$ 26,000	\$ 504.50 plus 6.0% of excess over \$ 16,000
Over \$ 26,000 but not over \$ 42,000	\$1,104.50 plus 7.1% of excess over \$ 26,000
Over \$ 42,000	\$2,240.50 plus 7.7% of excess over \$ 42,000.

D. For heads of household filing returns:

If the taxable income is:	The tax shall be:
Not over \$7,000	1.7% of taxable income
Over \$ 7,000 but not over \$ 14,000	\$ 119 plus 3.2% of excess over \$ 7,000
Over \$ 14,000 but not over \$ 20,000	\$ 343 plus 4.7% of excess over \$ 14,000
Over \$ 20,000 but not over \$ 33,000	\$ 625 plus 6.0% of excess over \$ 20,000
Over \$ 33,000 but not over \$ 53,000	\$1,405 plus 7.1% of excess over \$ 33,000
Over \$ 53,000	\$2,825 plus 7.7% of excess over \$ 53,000.

E. The tax on the sum of any lump-sum amounts included in net income is an amount equal to five multiplied by the difference between:

- (1) the amount of tax due on the taxpayer's taxable income; and
- (2) the amount of tax that would be due on

an amount equal to the taxpayer's taxable income and twenty percent of the taxpayer's lump-sum amounts included in net income. "

Section 3. Section 7-2-7 NMSA 1978 (being Laws 1994, Chapter 5, Section 20, as amended and as further amended by Section 2 of this act) is repealed and a new Section 7-2-7 NMSA 1978 is enacted to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES. --The tax imposed by Section 7-2-3 NMSA 1978 shall be at the following rates for any taxable year beginning in 2004:

A. For married individuals filing separate returns:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.7% of taxable income
Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of excess over \$ 4,000
Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of excess over \$ 8,000
Over \$ 12,000 but not over \$ 20,000	\$ 384 plus 6.0% of excess over \$ 12,000
Over \$ 20,000	\$ 864 plus 6.8% of excess over \$ 20,000.

B. For surviving spouses and married individuals filing joint returns:

If the taxable income is:                      The tax shall be:

Not over \$8,000	1.7% of taxable income
Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of excess over \$ 8,000
Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of excess over \$ 16,000
Over \$ 24,000 but not over \$ 40,000	\$ 768 plus 6.0% of excess over \$ 24,000
Over \$ 40,000	\$ 1,728 plus 6.8% of excess over \$ 40,000.

C. For single individuals and for estates and trusts:

If the taxable income is:	The tax shall be:
Not over \$5,500	1.7% of taxable income
Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of excess over \$ 5,500
Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of excess over \$ 11,000
Over \$ 16,000 but not over \$ 26,000	\$ 504.50 plus 6.0% of excess over \$ 16,000
Over \$ 26,000	\$1,104.50 plus 6.8% of excess over \$ 26,000.

D. For heads of household filing returns:

If the taxable income is:	The tax shall be:
Not over \$7,000	1.7% of taxable income
Over \$ 7,000 but not over \$ 14,000	\$ 119 plus 3.2% of

	excess over \$ 7,000
Over \$ 14,000 but not over \$ 20,000	\$ 343 plus 4.7% of excess over \$ 14,000
Over \$ 20,000 but not over \$ 33,000	\$ 625 plus 6.0% of excess over \$ 20,000
Over \$ 33,000	\$1,405 plus 6.8% of excess over \$ 33,000.

E. The tax on the sum of any lump-sum amounts included in net income is an amount equal to five multiplied by the difference between:

(1) the amount of tax due on the taxpayer's taxable income; and

(2) the amount of tax that would be due on an amount equal to the taxpayer's taxable income and twenty percent of the taxpayer's lump-sum amounts included in net income."

Section 4. Section 7-2-7 NMSA 1978 (being Section 3 of this act if it becomes law) is repealed and a new Section 7-2-7 NMSA 1978 is enacted to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES. --The tax imposed by Section 7-2-3 NMSA 1978 shall be at the following rates for any taxable year beginning in 2005:

A. For married individuals filing separate returns:

If the taxable income is:                      The tax shall be:

Not over \$4,000	1.7% of taxable income
Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of excess over \$ 4,000
Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of excess over \$ 8,000
Over \$ 12,000	\$ 384 plus 6.0% of excess over \$ 12,000.

**B. For surviving spouses and married individuals filing joint returns:**

If the taxable income is:	The tax shall be:
Not over \$8,000	1.7% of taxable income
Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of excess over \$ 8,000
Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of excess over \$ 16,000
Over \$ 24,000	\$ 768 plus 6.0% of excess over \$ 24,000.

**C. For single individuals and for estates and trusts:**

If the taxable income is:	The tax shall be:
Not over \$5,500	1.7% of taxable income
Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of excess over \$ 5,500
Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of excess over \$ 11,000

Over \$ 16,000 \$ 504.50 plus 6.0% of excess over \$ 16,000.

D. For heads of household filing returns:

If the taxable income is:	The tax shall be:
Not over \$7,000	1.7% of taxable income
Over \$ 7,000 but not over \$ 14,000	\$ 119 plus 3.2% of excess over \$ 7,000
Over \$ 14,000 but not over \$ 20,000	\$ 343 plus 4.7% of excess over \$ 14,000
Over \$ 20,000	\$ 625 plus 6.0% of excess over \$ 20,000.

E. The tax on the sum of any lump-sum amounts included in net income is an amount equal to five multiplied by the difference between:

(1) the amount of tax due on the taxpayer's taxable income; and

(2) the amount of tax that would be due on an amount equal to the taxpayer's taxable income and twenty percent of the taxpayer's lump-sum amounts included in net income. "

Section 5. Section 7-2-7 NMSA 1978 (being Section 4 of this act if it becomes law) is repealed and a new Section 7-2-7 NMSA 1978 is enacted to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES. --The tax imposed by Section 7-2-3 NMSA 1978 shall be at the following rates

for any taxable year beginning in 2006:

A. For married individuals filing separate returns:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.7% of taxable income
Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of excess over \$ 4,000
Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of excess over \$ 8,000
Over \$ 12,000	\$ 384 plus 5.3% of excess over \$ 12,000.

B. For surviving spouses and married individuals filing joint returns:

If the taxable income is:	The tax shall be:
Not over \$8,000	1.7% of taxable income
Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of excess over \$ 8,000
Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of excess over \$ 16,000
Over \$ 24,000	\$ 768 plus 5.3% of excess over \$ 24,000.

C. For single individuals and for estates and trusts:

If the taxable income is:	The tax shall be:
Not over \$5,500	1.7% of taxable income

Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of excess over \$ 5,500
Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of excess over \$ 11,000
Over \$ 16,000	\$ 504.50 plus 5.3% of excess over \$ 16,000.

D. For heads of household filing returns:

If the taxable income is:	The tax shall be:
Not over \$7,000	1.7% of taxable income
Over \$ 7,000 but not over \$ 14,000	\$ 119 plus 3.2% of excess over \$ 7,000
Over \$ 14,000 but not over \$ 20,000	\$ 343 plus 4.7% of excess over \$ 14,000
Over \$ 20,000	\$ 625 plus 5.3% of excess over \$ 20,000.

E. The tax on the sum of any lump-sum amounts included in net income is an amount equal to five multiplied by the difference between:

(1) the amount of tax due on the taxpayer's taxable income; and

(2) the amount of tax that would be due on an amount equal to the taxpayer's taxable income and twenty percent of the taxpayer's lump-sum amounts included in net income. "

Section 6. Section 7-2-7 NMSA 1978 (being Section 5 of

this act if it becomes law) is repealed and a new Section 7-2-7 NMSA 1978 is enacted to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES. --The tax imposed by Section 7-2-3 NMSA 1978 shall be at the following rates for any taxable year beginning on or after January 1, 2007:

A. For married individuals filing separate returns:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.7% of taxable income
Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of excess over \$ 4,000
Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of excess over \$ 8,000
Over \$ 12,000	\$ 384 plus 4.9% of excess over \$ 12,000.

B. For surviving spouses and married individuals filing joint returns:

If the taxable income is:	The tax shall be:
Not over \$8,000	1.7% of taxable income
Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of excess over \$ 8,000
Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of excess over \$ 16,000
Over \$ 24,000	\$ 768 plus 4.9% of excess over \$ 24,000.

C. For single individuals and for estates and trusts:

If the taxable income is:	The tax shall be:
Not over \$5,500	1.7% of taxable income
Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of excess over \$ 5,500
Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of excess over \$ 11,000
Over \$ 16,000	\$ 504.50 plus 4.9% of excess over \$ 16,000.

D. For heads of household filing returns:

If the taxable income is:	The tax shall be:
Not over \$7,000	1.7% of taxable income
Over \$ 7,000 but not over \$ 14,000	\$ 119 plus 3.2% of excess over \$ 7,000
Over \$ 14,000 but not over \$ 20,000	\$ 343 plus 4.7% of excess over \$ 14,000
Over \$ 20,000	\$ 625 plus 4.9% of excess over \$ 20,000.

E. The tax on the sum of any lump-sum amounts included in net income is an amount equal to five multiplied by the difference between:

- (1) the amount of tax due on the taxpayer's taxable income; and
- (2) the amount of tax that would be due on

an amount equal to the taxpayer's taxable income and twenty percent of the taxpayer's lump-sum amounts included in net income."

Section 7. Section 7-2-34 NMSA 1978 (being Laws 1999, Chapter 205, Section 1) is amended to read:

"7-2-34. DEDUCTION--NET CAPITAL GAIN INCOME.--

A. Except as provided in Subsection C of this section, a taxpayer may claim a deduction from net income in an amount equal to the greater of:

(1) the taxpayer's net capital gain income for the taxable year for which the deduction is being claimed, but not to exceed one thousand dollars (\$1,000); or

(2) the following percentage of the taxpayer's net capital gain income for the taxable year for which the deduction is being claimed:

(a) for a taxable year beginning in 2003, ten percent;

(b) for a taxable year beginning in 2004, twenty percent;

(c) for a taxable year beginning in 2005, thirty percent;

(d) for a taxable year beginning in 2006, forty percent; and

(e) for taxable years beginning on or after January 1, 2007, fifty percent.

B. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the deduction provided by this section that would have been allowed on the joint return.

C. A taxpayer may not claim the deduction provided in Subsection A of this section if the taxpayer has claimed the credit provided in Section 7-2D-8.1 NMSA 1978.

D. As used in this section, "net capital gain" means "net capital gain" as defined in Section 1222 (11) of the Internal Revenue Code. "

Section 8. EFFECTIVE DATE. --

A. The effective date of the provisions of Section 1 of this act is July 1, 2003.

B. The effective date of the provisions of Section 3 of this act is January 1, 2004.

C. The effective date of the provisions of Section 4 of this act is January 1, 2005.

D. The effective date of the provisions of Section 5 of this act is January 1, 2006.

E. The effective date of the provisions of Section 6 of this act is January 1, 2007. \_\_\_\_\_